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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/777,884
Filing Date	February 7, 2001
Inventor(s)	James A. JOHANSON et al.
Group Art Unit	2152
Examiner Name	Victor D. Lesniewski
Attorney Docket Number	129250-001020/US

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment Papers (for an Application) <input type="checkbox"/> Letter to the Official Draftsperson and _____ Sheets of Formal Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input checked="" type="checkbox"/> Change of Correspondence Address and POA <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> LETTER SUBMITTING APPEAL BRIEF AND APPEAL BRIEF (w/clean version of pending claims) <input checked="" type="checkbox"/> Appeal Communication to Group (Notice of Appeal, <u>2nd revised Appeal Brief</u> , (Signed) Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC	Attorney Name John E. Curtin	Reg. No. 37,602
Signature			
Date	July 9, 2007		



IN THE U.S. PATENT AND TRADEMARK OFFICE

Appellants: James A JOHANSON et al.
Application No.: 09/777,884
Art Unit: 2152
Filed: February 7, 2001
Examiner: Victor D. Lesniewski
For: BLUETOOTH DEVICE POSITION DISPLAY
Attorney Docket No.: 129250-001020/US

APPLICANT'S BRIEF ON APPEAL (Revision #2)

MAIL STOP APPEAL BRIEF - PATENTS

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

July 9, 2007

Sir/Madam:

In response to the Notice of Non-Compliant Appeal Brief ("Notice") mailed June 8, 2007 the Appellants submit this second ***revised brief*** to correct the informalities raised in the Notice.



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APPELLANT'S BRIEF ON APPEAL

I. REAL PARTY IN INTEREST:

The real party in interest in this appeal is Lucent Technologies Inc. Assignment of the application was submitted to the U.S. Patent and Trademark Office on February 7, 2001, and recorded at Reel 011565, Frame 0492.

II. RELATED APPEALS AND INTERFERENCES:

There are no known appeals or interferences that will affect, be directly affected by, or have a bearing on the Board's decision in this Appeal.

III. STATUS OF CLAIMS:

Claims 3-5, 19 and 30-37 are pending in the application, with claims 19 and 32 being written in independent form.

Claims 3-5, 19 and 30-37 remain finally rejected under 35 U.S.C. §103(a). **Claims 1, 2, 6-18 and 20-29 have been canceled.** Claims 3-5, 19 and 30-37 are being appealed.

IV. STATUS OF AMENDMENTS:

A Request for Reconsideration ("Request") was filed on February 3, 2006. In an Advisory Action dated February 24, 2006, the Examiner stated that the Request was considered and Appellant's amendments entered; however, the Request did not place the application in condition for allowance.

V. SUMMARY OF CLAIMED SUBJECT MATTER:

(i) Overview of the Subject Matter of the Independent Claims.

The present invention provides methods and systems for communicating with nearby wireless electronic devices. More particularly, claim 19 reads as follows (citations from specification **are** in parentheses):

19. A method for selecting nearby devices to communicate with, comprising the steps of:

transmitting a first Bluetooth signal (page 6, lines 1-4 and page 8, line 16 to page 9, line 9, for example);

detecting a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device (page 6, lines 4-19, and page 8, line 16 to page 9, line 9, for example); and

selecting a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates (page 6, line 19 to page 7, line 12, for example).

(See specification, page 5, line 15 to page 7, line 2; page 8, line 16 to page 9, line 9 and Figures 1-3.)

Independent claim 32, which is similar to claim 19, reads as follows:

32. A device for selecting nearby devices to communicate with operable to:

transmit a first Bluetooth signal (page 6, lines 1-4 and page 8, line 16 to page 9, line 9, for example);

detect a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device (page 6, lines 4-19, and page 8, line 16 to page 9, line 9, for example); and

selecting a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates (page 6, line 19 to page 7, line 12, for example).

(See specification, page 6, line 1 to page 7; line 2; page 8, line 16 to page 9, line 9 and Figures 1-3.)

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In order to make the overview set forth above concise the disclosure that has been included, or referred to, above only represents a portion of the total disclosure set forth in the specification that supports the independent claims.

(ii) The Remainder of the Specification Also Supports the Claims

The Appellants note that there may be additional disclosure in the specification that also supports the independent and dependent claims. Further, by referring to the disclosure above the Appellants do not represent that this is the only evidence that supports the independent claims nor do Appellants necessarily represent that this disclosure can be used to fully interpret the claims of the present invention. Instead, this disclosure is an overview of the claimed subject matter.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL:

Appellants seek the Board's review and reversal of the rejections of claims 3-5, 19 and 30-37 under 35 U.S.C. §103(a) based on Fumarolo et al, ("Fumarolo"), U.S. Patent No. 6,204,844 in view of Bork et al, U.S. Patent No. 6,246,376 ("Bork").

VII. ARGUMENTS:

A.) The Claims are Patentable Over the Combination of Bork and Fumarolo

In the Final Office Action, the Examiner repeated his rejection of claims 3-5, 19 and 30-37 under 35 U.S.C. §103(a) as being unpatentable over Fumarolo in view of Bork. Appellants disagree and respectfully request that the Board reverse the decision(s) of the Examiner for at least the following reasons.

Each of the claims of the present invention includes the features of: (a) the transmission of a first Bluetooth signal; (b) the detection of a plurality of

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“second Bluetooth signals, each containing GPS coordinates of at least one nearby device; and (c) the selection of a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates.

As the Appellants presently understand the §103 rejections, the Examiner is relying on Fumarolo for all the features of the claims except the disclosure of a Bluetooth signal. The Examiner relies on Bork for the disclosure of a Bluetooth signal.

Appellants note, however, that Fumarolo does not disclose features (a)-(c) set forth above. For example, though the Examiner states that Fumarolo “clearly shows the selection of a device to communicate with” (see page 3 of the Final Office Action, line 6), Appellants disagree. Fumarolo does not select any particular device to communicate with. Instead, Fumarolo discloses the grouping of devices into “talk groups”. Said another way, the selection in Fumarolo is not of a nearby device, but of a talk group. Fumarolo’s talk groups do not equate to, and are not suggestive of, the claimed nearby devices of the present invention.

In addition, Fumaralo makes a selection in order to group communication units together so that they may communicate with one another in the future in order “to handle an incident (e.g., accident) displayed on [an associated] map” (see Fumarolo column 14, lines 5-10). Thus, the selection of a talk group in Fumarolo is based on whether the communication units in the group desire to handle an incident, regardless of their location, GPS coordinates or whether they are nearby. Fumarolo’s use of GPS information is to locate the device, not to select a nearby device to communicate with.

Bork does nothing to make up for the deficiencies of Fumarolo.

Accordingly, Appellants respectfully submit that the subject matter of claims 3-5, 19 and 30-37 would not have been obvious to one of ordinary skill

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in the art at the time the application was filed upon reading the combination of Fumarolo and Bork.

Appellants respectfully request that the members of the Board reverse the decision of the Examiner, withdraw the rejections and allow claims 3-5, 19 and 30-37.

B.) The Combination of Fumarolo and Bork is Improper

In the Final Office Action (and substantively repeated in the Advisory Action), the Examiner takes the position that the combination of Fumarolo and Bork is proper because: (1) “one of ordinary skill in the art at the time the Applicants invention working through Fumarolo’s system would clearly have had knowledge of Bork’s system since Bork’s system is a similar communications network that also utilizes a mobile communication unit to provide an indication of a location of a second unit”; and (2) “since GPS data concerning other devices can be sent to a communication unit in Funarolo’s system, one of ordinary skill in the art would have thought it obvious to use alternative’s methods of transferring GPS data to a communication unit such as via Bluetooth as presented by Bork”. Appellants respectfully disagree.

One of ordinary skill in the art would realize that the particular Bluetooth based system in Bork could not be used in the system of Fumarolo because such a Bluetooth system would most likely not have the distance or range needed to carry out the principle of operation of Fumarolo.

Accordingly, Appellants respectfully submit that the combination of Fumarolo and Bork is improper for these reasons and for the reasons set forth in the Applicants’ previous responses.

Conclusion:

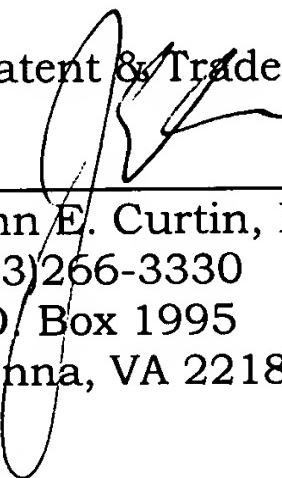
Appellants respectfully request that the members of the Board reverse the Examiner’s rejection of claims 3-5, 19 and 30-37 and allow these claims.

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The Commissioner is authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 50-3777 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

Capitol Patent & Trademark Law Firm, PLLC

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VII. CLAIMS APPENDIX

1. (Cancelled)

2. (Cancelled)

3. (Previously Presented) The method as in claim 30 further comprising displaying only those nearby devices within a certain.

4. (Previously Presented) The method as in claim 19, wherein each of said second signals includes the type of nearby device.

5. (Previously Presented) The method as in claim 4 further comprising the step of displaying the type of nearby device associated with each received second signal.

6.-18. (Cancelled)

19. (Previously Presented) A method for selecting nearby devices to communicate with, comprising the steps of:

transmitting a first Bluetooth signal;

detecting a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device; and

selecting a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates.

20.-29. (Cancelled)

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30. (Previously Presented) The method as in claim 19 further comprising the step of:

displaying the location of each nearby device associated with received GPS coordinates; and

selecting the nearby device to communicate with based on the displayed locations.

31. (Previously Presented) The method as in claim 30 further comprising selecting a nearby device associated with a shortest location.

32. (Previously Presented) A device for selecting nearby devices to communicate with operable to:

transmit a first Bluetooth signal;

detect a plurality of second Bluetooth signals, each containing GPS coordinates of at least one nearby device; and

selecting a nearby device associated with one of the detected signals to communicate with based on the received GPS coordinates.

33. (Previously Presented) The device as in claim 32 further operable to:

display the location of each nearby device associated with received GPS coordinates; and

select the nearby device to communicate with based on the displayed locations.

34. (Previously Presented) The device as in claim 33 further operable to select a nearby device associated with a shortest location.

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35. (Previously Presented) The device as in claim 33 further operable to display only those nearby devices within a certain range.

36. (Previously Presented) The device as in claim 32, wherein each of said second signals includes the type of nearby device.

37. (Previously Presented) The device as in claim 36 further operable to display the type of each nearby device associated with each received second signal.

IX. EVIDENCE APPENDIX

None.

X. RELATED PROCEEDINGS APPENDIX

None.

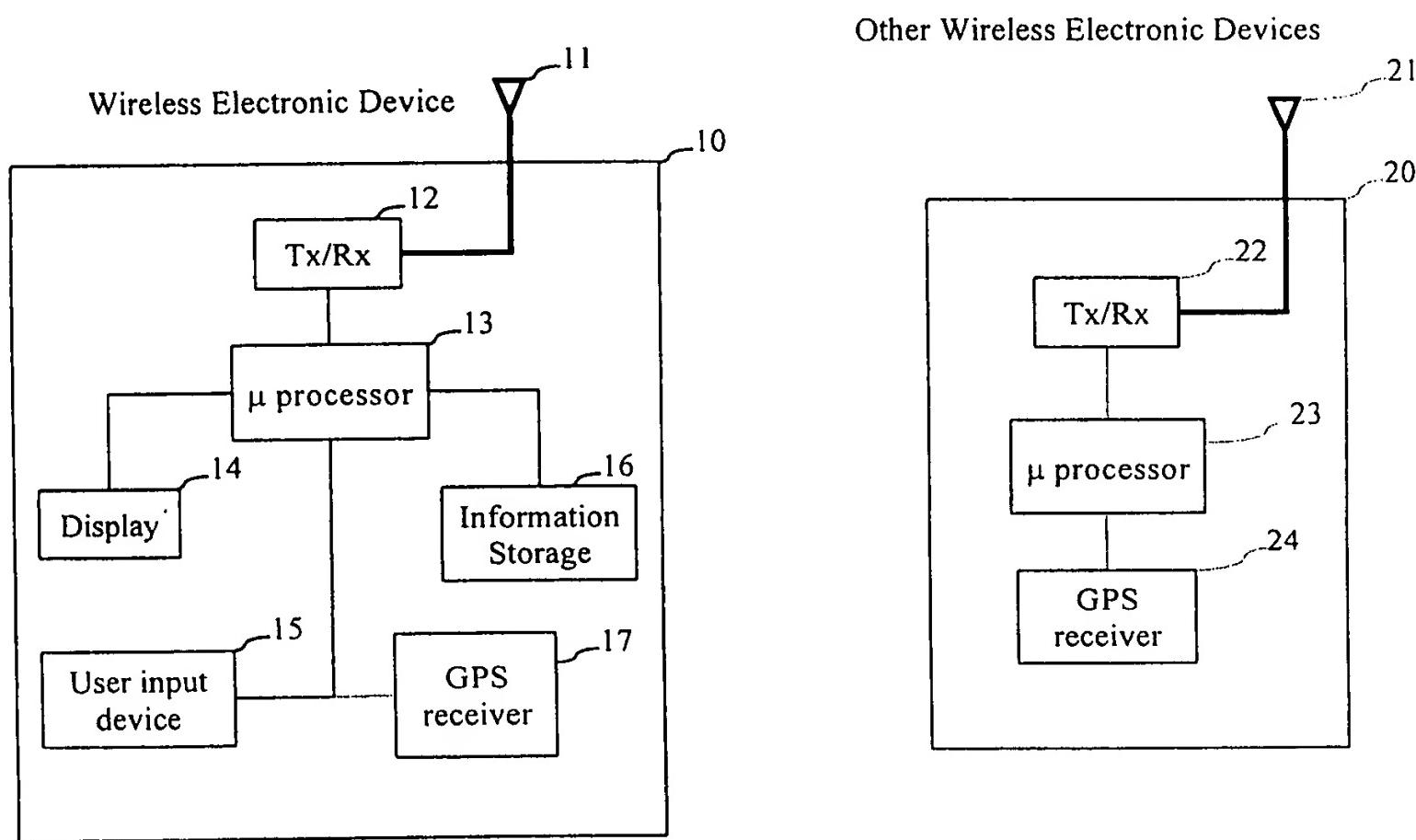
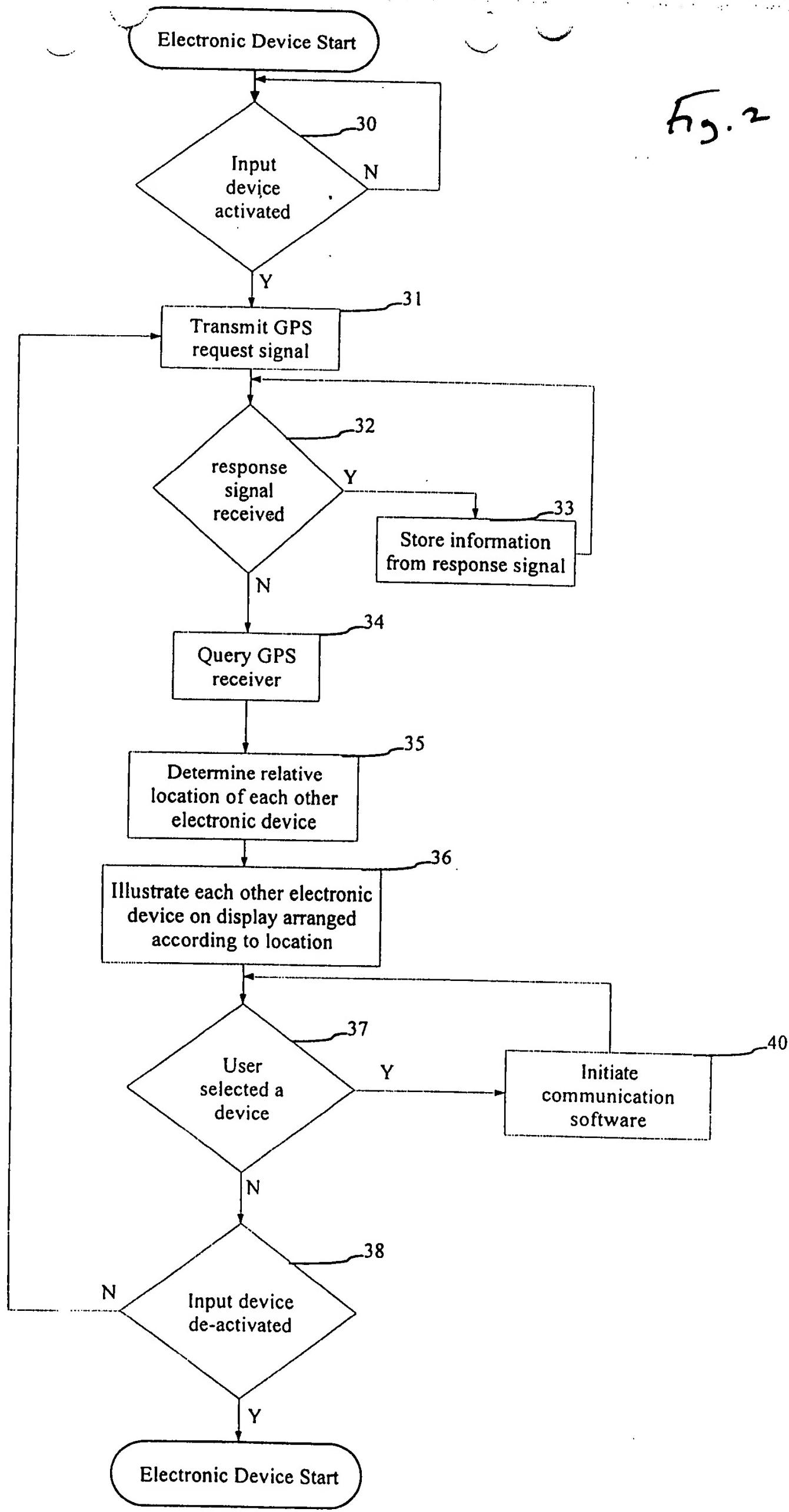


Fig. 1

Fig. 2



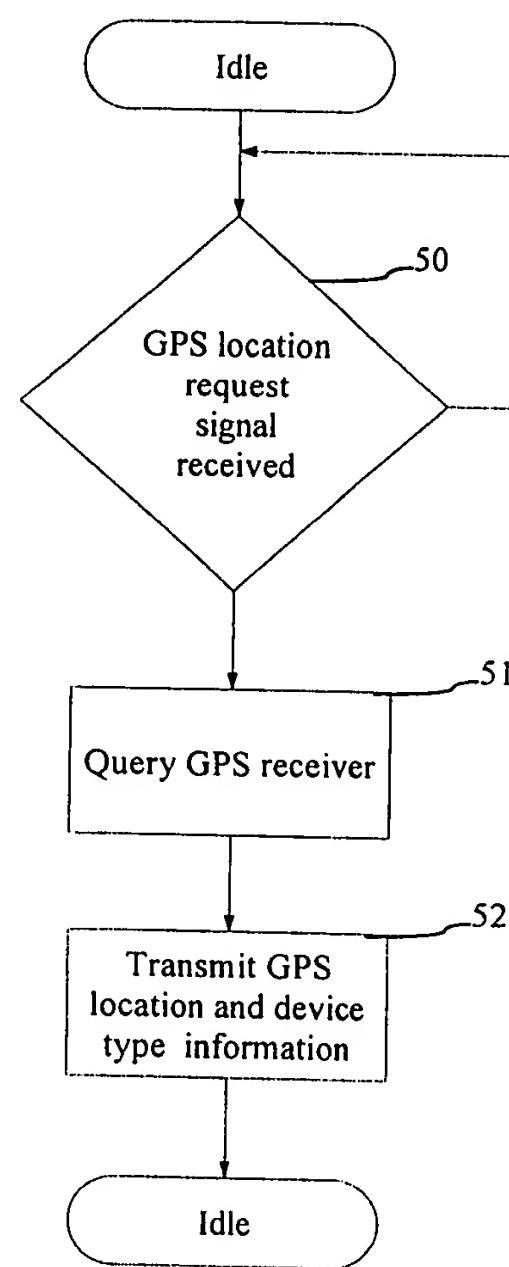


Fig. 3